



PATENT
Docket No. 492322002400

CERTIFICATE OF HAND DELIVERY

I hereby certify that this correspondence is being hand filed with the United States Patent and Trademark Office in Washington, D.C. on November 1, 2002.


N. DeRiggi

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Tetsuro ASANO et al.

Serial No.: 10/016,143

Filing Date: December 17, 2001

For: SEMICONDUCTOR SWITCHING
DEVICE

Examiner: Tan N. Tran

Group Art Unit: 2826

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RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Action mailed October 8, 2002, applicants provisionally elect to prosecute the claims of Group I, claims 1-12 and ~~13-28~~¹³⁻²⁵, with traverse.

Although paragraph 1 of the Action refers to restriction as being required under 35 USC 121, paragraph 2 states, "Applicant is required under 35 USC 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic." This statement is a standard statement of the kind made in a requirement for election of species, which is distinct from a requirement for restriction and is based upon different legal principals. If claim 1 is truly generic, then the Examiner should not be requiring restriction at all, but should, instead, be requiring election of species and giving applicants the opportunity to show allowability of

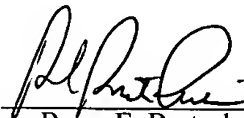
generic claim 1 and thus the allowability of all of the claims in this application together. Thus, applicants respectfully traverse the requirement for restriction on the ground that it is so unclearly stated that applicants cannot tell whether it is a restriction requirement or an election of species requirement. Applicants further respectfully submit that the Examiner has not, in accordance with usual election of species practice, given applicants clear notice of the different patentable species that are deemed to be present in the application. Applicants do not traverse the statement that claim 1 is generic, since they agree with the statement.

Applicants also respectfully traverse the requirement on the ground that examining all of the claims together will not impose any undue examining burden and that the Examiner has not provided a reasoned basis supporting the requirement. Both groups of claims identified by the Examiner are identically classified in class 257, subclass 472. Thus, a search on the claims in Group I will be made in the same art as the claims in Group II. Since the Examiner has not made an appropriate showing of examining burden necessitated by the claims in this application and has not shown difference in classification or other such criterion employed demonstrating undue examination burden, applicants respectfully submit that the pending Action is not well taken and that all of the claims in this application should be examined together.

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing 492322002400.

Dated: November 1, 2002

Respectfully submitted,

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